

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ERIC TANKERSLEY,	)	
	)	
Plaintiff	)	2:08cv1653
	)	Electronic Filing
vs.	)	
DONOVAN MORRIS; and THE PUBLIC	)	Judge Cercone/
DEFENDERS OFFICE,	)	Magistrate Judge Hay
	)	
Defendants	)	
	)	

**MEMORANDUM ORDER**

The above-captioned prisoner civil rights action was received by the Clerk of Court on December 3, 2008, and was referred to United States Magistrate Judge Amy Reynolds Hay for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation, Dkt. [2], on December 18, 2008, recommending that, pursuant to the screening provisions of the PLRA, the complaint be dismissed pre-service for failure to state a claim upon which relief can be granted. Plaintiff timely filed objections. Dkt. [3]. The Court finds that none of the objections is persuasive. Further, to the extent that Plaintiff is seeking through said objections to obtain leave to amend the complaint, leave will not be granted where, as here, the court concludes that amendment of the complaint would be futile. See Alston v. Parker, 363 F.3d 229, 235 (3d Cir. 2004) (“if a complaint is vulnerable to 12(b)(6) dismissal, a District Court must permit a curative amendment, unless an amendment would be inequitable or futile”).

After review of the pleadings and the documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 25 day of February, 2009,

**IT IS HEREBY ORDERED** that the complaint is dismissed pre-service pursuant to the screening provisions of the PLRA for failure to state a claim upon which relief can be granted.

**IT IS FURTHER ORDERED** that the Report and Recommendation, Dkt. [2], filed on December 18, 2008, by Magistrate Judge Hay, is adopted as the opinion of the court. Any attempt to amend the complaint would be futile. The Clerk is ordered to mark the case closed.

Lastly, the court certifies pursuant to 28 U.S.C. § 1915(a) that any appeal from this order would not be taken in good faith.

DS Cercone  
\_\_\_\_\_  
David Stewart Cercone  
United States District Judge

cc: The Honorable Amy Reynolds Hay  
United States Magistrate Judge

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